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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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MAY 30 1996

FILED

In the Matter of

Implementation of the Local  
Competition Provisions  
in the Telecommunications  
Act of 1996

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CC Docket. No. 96-98

To: The Commission

**REPLY COMMENTS**

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## SUMMARY

ALLTEL concurs with those parties suggesting that the Commission's defined role under the Telecommunications Act of 1996 ("1996 Act") permits it formulate broad national guidelines governing interconnection and unbundling arrangements. Then Congress clearly indicated in the 1996 Act unbundling arrangements. Then Congress clearly indicated in the 1996 Act that state-supervised, private negotiation is the preferred method of achieving interconnection arrangements. Detailed and uniform rules set by the Commission would run counter to Congressional intent and deprive the parties and the states of the flexibility needed to negotiate interconnection arrangements which best suit the needs of the carriers and their service territories.

Incumbent local exchange carriers ("ILECs") should not be forced to incur the expenses associated with excessive unbundling of their networks to satisfy the wish-lists of every potential interconnector. ALLTEL concurs with the Commission's tentative conclusion that four basic network elements should be unbundled.

ALLTEL also concurs with the Commission's conclusion that unbundling requirements should not provide the opportunity for interexchange carriers to evade either the Part 69 access regime or the 1996 Act's resale price prescriptions. With respect to suspensions of interconnection requirements under Section 251(f) of the 1996 Act, ALLTEL concurs with certain commenters that the 2 percent threshold should be applied on the holding company level. The standard for such suspensions, however, should be that explicitly stated in the 1996 Act and

certain commenters that the 2 percent threshold should be applied on the holding company level. The standard for such suspensions, however, should be that explicitly stated in the 1996 Act and applied by the state.

Unbundled network elements should be priced based upon access charge proxies. Pricing based upon TSLRIC does not provide ILECs with the ability to recover joint and common costs.

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Implementation of the Local Competition</b>	)	
<b>Provision of the Telecommunications Act</b>	)	<b>CC Docket No. 96-98</b>
<b>of 1996</b>	)	

**REPLY COMMENTS OF ALLTEL TELEPHONE SERVICES CORPORATION**

ALLTEL Telephone Services Corporation, on behalf of its local telephone exchange affiliates ("ALLTEL") replies to the various comments submitted by the parties in response to the Commission's Notice of Proposed Rulemaking ("NPRM") in the above-captioned matter.

**I. SCOPE OF REGULATIONS**

The parties take widely differing views on the role assigned to the Commission under the 1996 Act to regulate interconnection and unbundling arrangements. Some commenters believe that the Commission, at most, should provide broad national guidelines for the use of both the parties and the states in the negotiation and arbitration process.<sup>1</sup> Other commenters urge the Commission to prescribe detailed and cumbersome rules in order to achieve uniformity and moderate the alleged power of the RBOCs.<sup>2</sup>

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<sup>1</sup> See Comments of USTA at pages 5-8.

<sup>2</sup> See generally, Comments of AT&T at pages 3-14; Comments of MCI at pages 3-6.

Despite the elaborate rationalizations employed to reargue the merits of a national regulatory paradigm, ALLTEL notes that the Congress previously considered these issues and ultimately made basic policy judgments in the 1996 Act to which the Commission is bound. Voluntary negotiation is the preferred method for development of enhanced interconnection and unbundling arrangements. The states are cast in the role of arbiter. Only where the state essentially abdicates its established role through inaction may the Commission substitute its judgment on enhanced interconnection and unbundling matters. As suggested by USTA<sup>3</sup> the Commission can best fulfill its defined role in implementing the Act through the adoption of guidelines which afford the parties and the states the flexibility necessary to design agreements which fit the particular circumstances of the parties and the marketplace. To the extent the Commission opts for detailed federal prescriptions, it contradicts the express direction of the Congress and intimates that the states are incapable of successfully supervising these negotiations and enforcing the requirements of the 1996 Act. The states understandably appear to take issue with such intimations.<sup>4</sup>

Numerous parties<sup>5</sup> argued that a one size fits all mandate cannot accommodate the widely varying circumstances of individual local exchange markets and the carriers serving them across

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<sup>3</sup> Comments of USTA at pages 6-8.

<sup>4</sup> See Comments of NARUC at pages 7-9; Comments of the Public Utility Commission of Texas at pages 4-5; Comments of the Pennsylvania Public Utility Commission at pages 1-5; Comments of the State of New York Department of Public Services at pages 4-10.

<sup>5</sup> See Comments of Rural Telephone Coalition at page 3; Comments of Teleport Communications Group at page 24; Comments of USTA at page 7.

the country. As ALLTEL noted in its Comments at pages 3-4, the Congress recognized that there is more than one flavor of local exchange carrier and consequently afforded those carriers with fewer than 2 percent of the nation's access lines the flexibility to petition the state commissions for waiver or suspension of economically burdensome enhanced interconnection requirements. Private, state-supervised negotiations provide the added degree of flexibility mandated by the Congress and needed by incumbent carriers and competitors alike to adapt their interconnection arrangements to the particular circumstances of the territories they serve. Jurisdictional issues aside,<sup>6</sup> the Commission should not attempt to substitute its judgment on purely intrastate matters for that of the parties and the states.

Allegations of abusive of LEC bargaining power is an old saw which no longer reflects the realities of local exchange competition or the diversity of the competitors. As noted by ALLTEL in its Comments at page 2, it is confronted with competition from large diversified communications entities for whom local exchange service will be a product line extension rather than a new product introduction.<sup>7</sup> Rules that limit a small incumbent LEC's bargaining power do not make sense in negotiations with far larger carriers seeking interconnection.<sup>8</sup> While many parties believe that detailed federal standards are the only effective safeguard to alleged RBOC

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<sup>6</sup> ALLTEL notes that even in the wake of the 1996 Act's revisions, Section 2(b) of the Communications Act remains intact and Louisiana Public Service Commission v. FCC, 476 U.S. 355 (1986) remains good case law. Comments of NARUC at pages 11-14.

<sup>7</sup> See Harris and Yao, Federal Implementation of the Telecommunications Act of 1996: Competition in the Local Exchange at page 10 (attachment to the Comments of U.S. West).

<sup>8</sup> Comments of Rural Telephone Coalition at page 3.

abuse<sup>9</sup>, ALLTEL notes that the past is not necessarily prologue. The 1996 Act newly provides a carrot and stick approach under which the largest incumbent LECs have a powerful incentive to accept, if not promote, local competition -- entry into the prized interexchange market. As to AT&T's allegations that all independent LECs are without incentives to negotiate Section 251 agreements<sup>10</sup> ALLTEL notes independent LECs, and particularly those which meet the 2% test do in fact have the incentive to negotiate; their interests are far better served by achieving a mutually beneficial agreement with a potential competitor than by committing the financial and personnel resources necessary to pursue a suspension or waiver in face of opposition from a competitor with far greater resources. Indeed, the waiver and suspension process serves simply to level the playing field between independents and far larger competitors by providing the independents a backstop against burdensome interconnection demands. In any case, and as noted by USTA,<sup>11</sup> it is the IXC's who may in fact have the motive to slow the development of facilities based local exchange competition through unreasonable interconnection, unbundling and resale demands because they serve to delay RBOC entry into long distance.

## II. INTERCONNECTION AND UNBUNDLING

The avowed goal of the 1996 Act is to promote the development of facilities based competition in the local exchange market. Yet, despite their obvious resources, numerous parties seek to avoid investment in facilities and advocate forcing ILECs to decompose their

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<sup>9</sup> See, for example, Comments of AT&T at pages 7-8.

<sup>10</sup> Comments of AT&T at page 7.

<sup>11</sup> Comments of USTA at pages 2-3.

networks into every conceivable functionality, whether or not technically or economically feasible.<sup>12</sup> ALLTEL notes that while the 1996 Act imposes an obligation on ILECs to offer interconnection and unbundled network elements, the Act does not require them to either update or redesign their networks to accommodate the wish-list of every competitor requesting interconnection or IXC attempting to bypass the Commission's access regimen. The Commission has tentatively identified four network elements which an incumbent ILEC would offer to a requesting interconnector. ALLTEL continues to support the Commission's proposal subject to certain minor caveats noted in its Comments at pages 9-10.

The large IXC's however, continue to press for additional subelements<sup>13</sup> some of which, like subloop unbundling, may be technically infeasible<sup>14</sup> Similarly, the notion that a switch may be physically or technically separated to provide different functions to particular entities using it appears to be flawed.<sup>15</sup> As noted by ALLTEL and other parties, both switch hardware and software cannot be currently partitioned on a per line or per carrier basis.<sup>16</sup>

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<sup>12</sup> While advocating unbundling of ILEC networks, many CLECs seek to avoid similar obligations. Comments of Teleport Communications Group at page 10. ALLTEL believes that CLEC networks are essential to the expansion of the territories served by independent telephone companies, and consequently, should be under the same unbundling and interconnection obligations as ILECs.

<sup>13</sup> AT&T, for example, has proposed eleven minimum unbundled elements. Comments of AT&T at page 16.

<sup>14</sup> See Comments of Bell Atlantic at page 23 and attached Declaration of Raymond Albers at 10-12; Comments of GTE at pages 33-36.

<sup>15</sup> See Comments of Sprint at pages 33-34.

<sup>16</sup> Comments of Bell Atlantic, Declaration of Raymond F. Albers at page 14.



The 1996 Act nowhere indicates that ILECs, and particularly independent ILECs, must fundamentally alter the configuration of their networks or invest huge sums to accommodate the visions of certain carriers for future functionalities which go far beyond the capabilities of current networks. Nor do those parties advocating excessive unbundling indicate where a ILEC is to obtain revenue to pay for network modifications. Indeed, inasmuch as the potential interconnectors argue for the provision of ILEC features on an incremental cost basis, there is a disincentive for the ILEC to newly invest in network architecture solely for the interconnector's use. The investment is simply not justified by the return. Those seeking interconnection under the Act must essentially take the incumbents' network the way they find it. The diversity of network configurations (particularly in independent and rural LEC territories) is yet another reason for the Commission to afford parties the flexibility to negotiate agreements.

### **III. INTEREXCHANGE CARRIERS SHOULD NOT BE PERMITTED TO BYPASS PART 69 ACCESS CHARGES THROUGH RESALE OR BY AGGREGATING UNBUNDLED NETWORK ELEMENTS.**

ALLTEL and other commenters continue to support the Commission's tentative conclusion that Section 251's unbundling requirements do not vitiate the Commission's existing access regime. Long distance interests, however, continue to press for an interpretation of Section 251 which would allow interexchange carriers to avoid both access charges and resale pricing standards.<sup>17</sup>

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<sup>17</sup> For example, see Comments of Comptel at page 58; Comments of AT&T at pages 27-29.

There is no provision in the 1996 Act which indicates any intent on Congress' part to permit IXCs, in their capacity as IXCs, to evade access charges simply by assembling unbundled network elements from a LEC. Indeed, a contrary conclusion is required. As Bell Atlantic notes,<sup>18</sup> Section 251(g) preserves the existing access structure until it is superseded by new rules. Similarly, the Commission should not permit the 1996 Act's resale price standards to be undercut by carriers attempting to mimic LEC networks by assembling unbundled elements obtained at below cost prices.<sup>19</sup>

ALLTEL noted in its Comments<sup>20</sup> that the instant proceeding is critically interrelated with the Commission's pending Universal Service proceeding and its anticipated consideration of access reform. Until those proceedings have resulted in long term reforms, competing carriers should not be permitted to engage in short term arbitrage among rates in order to undercut LECs who remain saddled with high cost structures and universal service obligations.<sup>21</sup> Further, the Commission must maintain the incentive to competing carriers to construct their own networks by preserving the Act's resale pricing standard.

#### IV. SUSPENSIONS AND MODIFICATIONS.

AT&T argues that the 2 percent standard for suspensions and modifications contained in Section 251(f) of the 1996 Act should be applied at the holding company level.<sup>22</sup> AT&T further seeks to have the Commission unilaterally augment the mandated standard by requiring

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<sup>18</sup> Comments of Bell Atlantic at page 11.

<sup>19</sup> Comments of USTA at pages 24-25.

<sup>20</sup> ALLTEL Comments at pages I-II.

<sup>21</sup> Comments of Bell Atlantic at page 11.

<sup>22</sup> Comments of AT&T at page 91.

that a petitioning carrier demonstrate that the application of the Section 251 obligations would inflict "substantial" harm on the LEC and its customers which would not be similarly inflicted on other larger LECs or customers in other territories.<sup>23</sup>

ALLTEL concurs that the 2 percent threshold should be applied at the holding company level. As a proponent of the provisions ultimately embodied in Section 251(f), ALLTEL notes that there were both significant congressional debate and support for providing mid-size independent LECs with the ability, in the face of new competition from substantially larger, integrated and unregulated competitors, to essentially "level the playing field" and compete. These same policy considerations clearly did not apply to LECs with over 2 percent of the nation's access lines and, consequently, application of the 251(f) provisions to such LECs was never contemplated.


As to the augmented standard AT&T seeks for Section 251(f) suspensions or modifications, ALLTEL notes that the 1996 Act contains a clear standard which does not contain the word "substantial" and with which the Commission should not tamper. Any Commission requirements, therefore, must be constructed in manner which is consistent with the clearly indicated congressional intent to protect LECs of a particular size (and their customers) from overly burdensome enhanced interconnection requirements. Indeed, given the IXCs' agenda in this proceeding and the evasion of the access regime and resale prices

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<sup>23</sup> Comments of AT&T at page 92.

prescriptions it engenders, the suspension and waiver process may ultimately be the key to the survival of the independent local exchange industry.

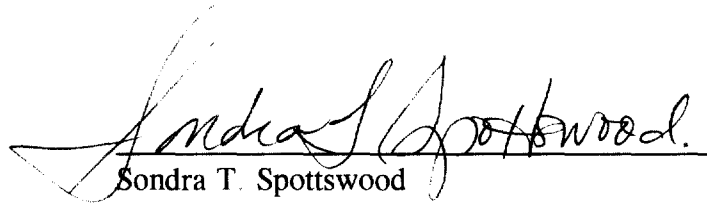
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**CERTIFICATE OF SERVICE**

I, Sondra T. Spottswood, do hereby certify that on this 30th day of May, 1996, a copy of "Reply Comments" of ALLTEL Telephone Services Corporation was mailed by United States first-class mail, postage prepaid, unless otherwise noted, upon all the parties of record to this proceeding.

  
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